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12 **UNITED STATES BANKRUPTCY COURT**
13 **EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION**

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15 In re:
16 **JUAN VILLALOBOS and**
17 **MARIA ALICIA VILLALOBOS,**
18
19 Debtors.

Case No: 2010-15685
Docket No.: ALG-1

Chapter 7

20 **NOTICE OF MOTION AND MOTION TO**
21 **COMPEL CHAPTER 7 TRUSTEE TO**
22 **ABANDON PROPERTY OF THE ESTATE**
23 **AND TO ALLOW DEBTORS TO SELL**
24 **REAL PROPERTY**

25 11 U.S.C. Section 554(b)

26 Date: July 7, 2010
27 Time: 9:00 a.m.
28 Place: Courtroom 11- 5th Floor
29 2500 Tulare Street
30 Fresno, CA 93721

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32 **TO THE HONORABLE WHITNEY RIMEL, BETH M. STRATTON/CHAPTER 7**
33 **TRUSTEE, AND ALL OTHER INTERESTED PARTIES:**

34 NOTICE IS HEREBY GIVEN that the Debtors hereby move this Court for an Order Granting
35 Debtors' MOTION TO COMPEL CHAPTER 7 TRUSTEE TO ABANDON PROPERTY OF THE
36 ESTATE AND TO ALLOW DEBTORS TO SELL REAL PROPERTY.

MEMORANDUM OF FACTS AND AUTHORITIES

3 1. The Debtors herein filed a Chapter 7 bankruptcy case on May 21, 2010.

4 2. The subject real property was Debtors' former residence and as an alternative to retaining the

5 property and continuing to make the mortgage payments on the property, or losing the property at a

6 foreclosure auction, the Debtors wish to complete the pending sale as the property is currently in

7 escrow.

8 3. The property is located at 219 San Pedro Street, Mendota, California 93640 and is encumbered

9 by two mortgages. The sale is a short sale; the Debtors will receive no proceeds, and the second

10 mortgage lender, Wells Fargo Bank (also referenced to as Wells Fargo Home Equity) will take a

11 sizeable loss. See Exhibit "1," California Residential Purchase Agreement and Joint Escrow

12 Instructions, which is incorporated herein by reference. A true and correct copy of the Seller

13 Estimated Closing Statement is enclosed as Exhibit 2.

14 4. The sale price is for \$115,000.00. Since the house is currently encumbered in the amount of

15 \$176,332.00, there is nothing left over for the estate. A true and correct copy of Debtors' Credit

16 Report is enclosed as Exhibit 3.

17 5. Wells Fargo Home Mortgage wants an order to compel abandonment before they will make a

18 decision on the proposed short sale. Wells Fargo Bank (also referenced to as Wells Fargo Home

19 Equity) will lose money through the proposed short sale. The short sale is also in Wells Fargo Home

20 Mortgage's best interest, which is why they are looking into the short sale, even at a sizable loss,

21 since they expect to recover even less at a foreclosure action.

22 6. Wells Fargo Bank (also referenced to as Wells Fargo Home Equity), will lose money through the

23 proposed short sale. Debtors are not receiving any proceeds from the sale, and the property is

24 obviously of no benefit to the estate.

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1 WHEREFORE, Debtors pray for the following:

1. That the Motion to Abandon be Granted;
2. That the Debtors may sell the Real Property Located at 219 San Pedro Street, Mendota, California 93640; and
3. For such other relief as this Court deems appropriate.

8 | Dated: June 2, 2010

ADIUVO LAW GROUP, PC

Janine Esquivel
Attorney for Debtors